

REMARKS

The Examiner is thanked for the performance of a thorough search. Each issue raised in the Office Action mailed July 29, 2004 is addressed hereinafter.

I. STATUS OF THE CLAIMS

Claims 1 – 4, 6 – 17 and 19 - 30 are pending in the application. Claims 1, 19, 20, 21, 22, and 29 have been amended to clarify the invention.

II. REJECTION BASED ON 35 U.S.C. §103(a)

The Office Action has rejected Claims 1-2, 6-9, 14-16, 20-22, 24-25, and 27-30 under 35 USC §103(a) as being unpatentable over Martin in view of Haddock et al. (U.S. Pat. No. 6,104,700).

Applicant respectfully disagrees.

Claim 1 appears as follows:

1. A method of selectively establishing a quality of service value for a particular network device in a network that comprises a plurality of other heterogeneous network devices, comprising the steps of:
receiving application information that defines one or more traffic flows associated with one or more message types generated by an application program, including information identifying one or more points at which an application generates the traffic flows;

receiving device information that defines one or more quality of service treatments that the particular network device may apply to data processed by the particular network device;

based on the device information and the application information,

determining one or more processing policies that associate the traffic flows with the quality of service treatments;

creating and storing one or more mappings of the application points to the quality of service treatments that may be used with the processing policies to generate the quality of service value when the application program generates traffic flows of one of the message types;

causing generation of the quality of service value, wherein the generation of the quality of service value is based on said one or more mappings and is performed before transmitting said traffic flows of one of the message types to said network;

enforcing one of the processing policies at the network device in response to receiving traffic from the application program that matches the traffic flow type; and

wherein enforcing one of the processing policies comprises:

requesting, using an application QoS policy element that is tightly coupled to the application program, an operating system function to modify a packet of the traffic flows using a policy element that requests a different operating system function according to the operating system then in use; and

at the network device, in response to receiving traffic from the application program that matches the traffic flow type and in response to the operating system function, modifying a

portion of the packet to activate a quality of service treatment of the network device.

In particular, Haddock does not disclose a system that enforces one of the processing policies at the network device in response to receiving traffic from the application program that matches the traffic flow type, wherein enforcing one of the processing policies comprises: requesting, using an application QoS policy element that is tightly coupled to the application program, an operating system function to modify a packet of the traffic flows using a policy element that requests a different operating system function according to the operating system then in use, and at the network device, in response to receiving traffic from the application program that matches the traffic flow type and in response to the operating system function, modifying a portion of the the packet to activate a quality of service treatment of the network device as claimed in the invention. Haddock does not contemplate such a system. As per the Office Action, Martin does not teach such a system.

In the Response to Arguments section, the Office Action states:

“There is no limitation on how the packets are modified or whether all packets are modified in the same manner. Therefore, Haddock’s teaching of dropping and discarding packet to meet Quality of Service requirement meets the scope of the claimed invention ‘modifying the packet to activate a quality of service treatment’..”

Applicant has amended Claims 1, 20, 21, 22, and 29 to clarify the invention. The element now appears as: “modifying a portion of the the packet to activate a quality of

service treatment of the network device“. As the element now appears, Haddock teaches away from the invention as claimed in Claims 1, 20, 21, 22, and 29 by teaching the dropping and discarding of packets are required to meet the Quality of Service requirement, as the Office Action has noted. Haddock does not contemplate modifying a portion of the the packet to activate a quality of service treatment of the network device.

Therefore, Martin in view of Haddock et al. does not teach or disclose the invention as claimed.

Claim 1 is therefore allowable. Independent Claims 20, 21, 29, and 30 are similarly allowable. Claims 2, 6-9, 14-16, and 28 are dependent upon Claim 1 and are allowable. Claims 22, 24, 25, and 27 are dependent upon Claim 21 and are allowable. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 USC §103(a).

III. REJECTION BASED ON 35 U.S.C. §103(a)

The Office Action has rejected Claims 3-4 and 23 under 35 USC §103(a) as being unpatentable over Martin in view of Haddock et al. and in further view of Chapman et al. (U.S. Pat. No. 6,028,842).

The rejection under 35 USC §103(a) is deemed moot in view of Applicant's comments regarding Claims 1, 20, 21, 29, and 30, above. Claims 3-4, and 23 are dependent upon Independent Claims 1 and 21, respectively. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 USC §103(a).

IV. REJECTION BASED ON 35 U.S.C. §103(a)

The Office Action has rejected Claim 10-11, 17, 19, and 26 under 35 USC §103(a) as being unpatentable over Martin in view of Haddock et al. and in further view of Chapman in further view of Mohaban et al. (U.S. Pat. No. 6,463,470).

The rejection under 35 USC §103(a) is deemed moot in view of Applicant's comments regarding Claims 1, 20, 21, 29, and 30, above. Independent Claim 19 is similarly allowable. Claims 10-11, 17, and 26 are dependent upon Independent Claims 1 and 21, respectively. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 USC §103(a).

V. REJECTION BASED ON 35 U.S.C. §103(a)

The Office Action has rejected Claims 12 and 13 under 35 USC §103(a) as being unpatentable over Martin in view of Haddock et al. and in further view of Schwaller et al. (U.S. Pat. No. 6,061,725).

The rejection under 35 USC §103(a) is deemed moot in view of Applicant's comments regarding Claims 1, 20, 21, 29, and 30, above. Claims 12-13 are dependent upon Independent Claim 1. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 USC §103(a).

For the reasons set forth above, Applicant respectfully submits that all pending claims are patentable over the art of record, including the art cited but not applied.

Accordingly, allowance of all claims is hereby respectfully solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

Dated: March 14, 2005



Kirk D. Wong
Reg. No. 43,284

2055 Gateway Place, Suite 550
San Jose, California 95110-1089
Telephone No.: (408) 414-1080 ext. 214
Facsimile No.: (408) 414-1076

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

on March 14, 2005
(Date)

by 
(Signature)